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average child in the community needs, plus special safeguards and even greater opportunities because of the handicap from which he suffers.

When we speak of dependency we do not limit ourselves to economic dependency; on the contrary we would include the child dependent upon others than his natural protectors for love and sympathy and understanding. Nothing can replace the mother who, looking into her child's face, sees her own and her husband's weaknesses and strength reflected there and seeing knows and understands and loves and forgives as no other human being ever can do. Nothing that human ingenuity can devise will replace good parental care in the life of a child. In spite of all our efforts, preventive and remedial, many thousands of children fail of this, their just due. When this happens, whether through the fault of

the individual or of society, it is society's obligation and its own safeguard to give the best substitute possible. For most children this is a foster home, carefully selected with the needs of the individual child in mind, and supervised by a naturally endowed, well educated and specially trained person who has the fundamental qualities of tact, humor and love of her kind.

Time was when any well disposed decadent female of uncertain years was thought equal to the task of directing the lives of placed-out children. Today the job is looked upon as of such importance and dignity that it ranks as a type of work which calls for careful preparation and study of the technique of case work. The social surgery which is implied in the separation of a child from his family is a task big enough to challenge the interest of the best minds.

## Social Responsibility for the Protection of Children Handicapped by Illegitimate Birth

By KATHARINE F. LENROOT

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IN its bearings upon social standards, family relationships, infant mortality, dependency and neglect, illegitimacy occupies a place of more than usual interest. Among all races and peoples from the time of the establishment of the marriage institution, the problem of birth out of wedlock has been present. As marriage became interwoven with private property and inheritance rights, the stigma upon illegitimacy increased, and also the hazards to which the child born out of wedlock was subjected. In an effort to prevent illegitimacy and to stamp out infanticide, which was alarmingly prevalent, Church and state in the Middle

Ages imposed drastic penalties upon the mothers. The children were deprived of civil and ecclesiastical rights; though during this period the beginnings of the modern movement for the protection of such children were seen in the establishment of foundling asylums, with their *tours* in which children could be left secretly.

Modern times have seen a marked change in the attitude of society toward the child born outside the sanction of the law, though only within recent years has this altered point of view been crystallized into legal form. From the decree of Napoleon forbidding inquiry into paternity, it is a long

step to the French laws permitting such inquiry, enacted shortly before the War, and the proposal for more thorough enforcement of paternal responsibility, made by a French delegate to the Second International Congress for Child Welfare held in Brussels in July of this year. In England, under the common law the child of illegitimate birth has been termed "filius nullius," and the only recognition of responsibility on the part of the parents for his support has been under the poor law or governed by its policies; but only recently a strong reform movement has been led by the National Council for the Unmarried Mother and Her Child. A bill backed by the National Council and for some time pending in Parliament, recognizes that the child born out of wedlock has two parents, both having certain obligations toward their offspring, and that the state owes especial protection to all such children. A substitute bill, much modified, is now before Parliament.<sup>1</sup> But it is the Scandinavian countries—first Norway and then Sweden—which have led in enacting legislation assuring to the child of illegitimate birth some approximation of the parental care and support accorded the child born in wedlock.

In the United States, illegitimacy legislation has mainly followed the English precedents. It is only within the last ten or twelve years that a movement has developed which has already placed upon the statute books of several states more just and adequate laws, based upon the theory that the children are innocent and that, so far as such advantages can be secured by legal and social measures, they are entitled to the same benefits of home life

and parental care as are enjoyed by children of more fortunate birth.

#### THE PREVALENCE OF BIRTH OUT OF WEDLOCK

In the United States it is very difficult to secure adequate data on the prevalence of birth out of wedlock, even in the states—comprising 58.6 per cent of the total population—which are now included in the birth registration area. The proportion of unregistered illegitimate births is undoubtedly greater than the proportion of unregistered legitimate. The entry of incorrect information on the birth certificate further invalidates the figures, and the failure of many states and cities to compile separate statistics for illegitimate births reduces still further, the amount of information available. The figures that can be obtained indicate a problem not so great in extent as in most European countries,<sup>2</sup> but of sufficient proportions to demand serious attention and study. In eight states in the birth registration area in 1915, the number of live births reported as illegitimate per 1,000 single, widowed, and divorced women of child-bearing age (15 to 44 years) was 4.6. This percentage was lower than in any European country for which figures were obtained except Ireland.

In most states for which data can be secured, the percentage of illegitimate live births ranges from seven-tenths of one per cent to 2.4, if Negro births in states having large Negro populations are excluded. Table 1 shows the per cent of illegitimate live births in 28 states, 22 of which are now in the birth-registration area.

In twenty-one cities having more than 100,000 population, statistics of illegitimate births are available and

<sup>1</sup> For debates on the English bill, see *Parliamentary Debates*. H. C., Vol. 128, No. 57. See also *Maternity and Child Welfare*, London, Vol. 5, No. 4 (April, 1921), p. 105.

<sup>2</sup> For prevalence in Europe, see U. S. Children's Bureau, *Illegitimacy as a Child Welfare Problem*. Part 1, Washington, 1920. Pp. 10-15.

TABLE 1

PER CENT OF LIVE BIRTHS REPORTED ILLEGITIMATE IN TWENTY-EIGHT STATES OF THE UNITED STATES \*

STATE	1915	1916	1917	1918	1919	1920
Alabama:						
White . . . . .	1.0	0.9	0.9	0.8	0.9	1.1
Negro . . . . .	14.1	13.7	12.8	10.0	11.6	14.4
Connecticut† . . . . .	1.1	1.0	0.9†	1.1†	1.0†	..
Indiana† . . . . .	1.4	1.5	1.4	1.4	1.5	1.5
Kansas† . . . . .	..	..	0.7†	0.6†	0.7†	..
Kentucky:†						
White . . . . .	..	..	1.0†	0.7†	1.0†	..
Negro . . . . .	..	..	7.5†	8.6†	10.4†	..
Maine† . . . . .	..	..	1.0†	0.8†	1.1†	..
Maryland:†						
White . . . . .	2.4	2.2	1.7†	1.8†	1.9†	1.7
Negro . . . . .	20.7	20.5	17.1†	17.1†	18.0†	19.5
Massachusetts† . . . . .	2.3	..	0.8†	0.7†	1.0†	..
Michigan† . . . . .	1.7	..	1.2†	1.2†	1.3†	..
Minnesota† . . . . .	2.0	1.9	1.8	1.9	1.8	1.8
Missouri . . . . .	2.1	2.2	2.4	2.3	2.9	3.0
Nevada . . . . .	0.9	1.9	1.0	0.3	0.5	0.7
New Hampshire† . . . . .	0.8	1.1	1.1	1.2	1.1	1.3
New York† . . . . .	..	..	1.0	0.9†	1.0†	1.0
North Carolina:†						
White . . . . .	..	..	1.6†	1.4†	1.5†	..
Negro . . . . .	..	..	12.5†	11.4†	11.5†	..
Ohio† . . . . .	..	..	1.3†	1.3†	1.5†	..
Oklahoma:						
White . . . . .	..	..	..	..	0.8	..
Negro . . . . .	..	..	..	..	6.1	..
Indian . . . . .	..	..	..	..	2.5	..
Oregon† . . . . .	..	..	..	..	1.4†	..
Pennsylvania† . . . . .	2.0	1.8	1.8†	1.8†	1.9†	..
Rhode Island† . . . . .	1.5	1.3	1.2	1.4	1.3	..
South Carolina:†						
White . . . . .	..	..	..	..	1.7†	..
Negro . . . . .	..	..	..	..	13.6†	..
South Dakota . . . . .	0.8	0.9	0.9	0.7	0.9	0.7
Texas . . . . .	1.0	1.0	1.2	..	1.2	1.8
White . . . . .	..	..	0.6	..	..	..
Negro . . . . .	..	..	7.8	..	..	..
Utah† . . . . .	0.8	0.7	0.7	0.8†	0.8†	..
Vermont† . . . . .	1.9	1.4	1.8	1.3†	1.9†	..
Virginia:†						
White . . . . .	..	..	2.0	1.8	1.8†	..
Negro . . . . .	..	..	14.3	13.3	13.0†	..
Washington† . . . . .	..	..	0.9†	0.8†	1.0†	..
Wisconsin . . . . .	1.4	1.6	1.5	1.5†	1.2†	..

\* Unless otherwise indicated, the data were furnished by state departments of health and bureaus of vital statistics. For figures for earlier years, see *Illegitimacy as a Child Welfare Problem*, Part I, cited above, p. 23. In some states it was impossible to tell with absolute certainty whether or not stillbirths were included in the number of births, especially in the number of illegitimate births.

† States now in the United States birth registration area.

‡ U. S. Bureau of the Census: Birth Statistics for the Birth Registration Area of the United States, 1917, 1918, 1919. Washington, 1919, 1920, 1921.

are given in Table 2. The percentages for most of these cities are larger than those for the states in which they are located.

In 1919, the Children's Bureau made an estimate of the total yearly average of white illegitimate births in the United States, by applying the average number of illegitimate births per 1,000 single, widowed, and divorced white women of child-bearing age in the sixteen states for which statistics were available, to the estimated number of all such women in the country. From this estimate, it appears certain that at least 32,000 white children are born out

of wedlock each year.<sup>3</sup> To what hazards these unwanted and unwelcomed babies are subjected will be shown later in this discussion.

#### THE BACKGROUND OF ILLEGITIMACY

Who are the mothers and fathers of these many thousands of children born out of wedlock each year? With what heritage are the children endowed? What are the possibilities of care by the mothers and fathers, and to what extent is the protective aid of the community, exercised through public or private agencies, a necessity? All these questions are involved in the

TABLE 2  
PER CENT OF LIVE BIRTHS REPORTED ILLEGITIMATE IN TWENTY-ONE CITIES OF THE UNITED STATES HAVING MORE THAN 100,000 POPULATION \*

CITY	1915	1916	1917	1918	1919	1920
Baltimore:						
White . . . . .	3.1	2.6	2.1	2.5	1.7	1.3
Negro . . . . .	24.5	22.7	21.6	23.1	20.9	21.8
Boston . . . . .	4.6	..	..	..	..	..
Buffalo . . . . .	2.1	2.2	2.5	1.8	2.2	1.9
Cincinnati . . . . .	3.8	2.8	2.3	2.6	3.0	2.9
Cleveland . . . . .	2.3	..	..	1.2	..	..
Denver . . . . .	2.8	2.9	3.6	4.0	3.4	3.2
Detroit† . . . . .	2.6	2.1	2.0	1.9	1.7	2.2
Grand Rapids, Mich. . . . .	3.7	4.1	3.4	2.9	3.2	3.2
Hartford . . . . .	1.8	1.9	1.9	2.1	1.7	2.2
Kansas City, Mo. . . . .	6.1	6.2	7.9	8.2	11.9	13.6
Milwaukee† . . . . .	2.6	2.8	2.6	2.3	2.5	2.7
Minneapolis . . . . .	4.3	4.0	4.0	3.8	3.3	3.9
Newark . . . . .	1.4	1.3	1.1	..	..	..
New York . . . . .	1.2	1.1	1.0	..†	1.1	1.1
Philadelphia . . . . .	2.7	2.4	2.3	2.3	2.3	2.6
Pittsburgh . . . . .	3.0	..†	..†	..†	2.9	2.8
Providence . . . . .	2.1	1.7	2.1	2.1	1.6	1.8
St. Louis . . . . .	3.7	3.9	3.6	3.6	4.2	3.7
St. Paul . . . . .	5.1	4.5	5.0	3.8	4.1	3.9
Toledo . . . . .	2.6	1.7	1.8	1.8	2.0	2.0
Washington:						
White . . . . .	2.3	1.6	2.3	1.4	1.8	2.0
Negro . . . . .	19.5	18.2	18.8	15.9	17.0	15.9

\* The data were furnished by state or city departments of health or bureaus of vital statistics. For figures for earlier years, see *Illegitimacy as a Child Welfare Problem*, Part I, cited above, p. 25.

† Includes stillbirths. The percentages would have been slightly lower had stillbirths been excluded.

‡ Not available.

<sup>3</sup> *Illegitimacy as a Child Welfare Problem*, Part I, cited above, pp. 26-27.

formulation of a wise social program.

Recent studies have shown that many of the mothers—from one-ninth to about one-fifth in various groups for which information has been obtained—are but children themselves, being under the age of eighteen years. About the same proportion of the fathers are under the age of legal majority. Available information indicates that the great majority of the mothers are gainfully employed prior to the child's birth, chiefly in domestic service or as semi-skilled factory workers. Almost half the fathers are in the ranks of semi-skilled workers, laborers or servants, though a large percentage are skilled workers or clerks and kindred workers.

One-fifth of the mothers of infants born out of wedlock in Boston during one year, for whom the information justified classification as to mental condition, were known to be below normal mentally, 8.8 per cent having been diagnosed as feeble-minded. These are understatements. Considering together the mental condition of parents and maternal grandparents; only fragmentary information being available, it was found that of 2,178 children born out of wedlock who were under care of social agencies, at least 19 per cent had a heritage in which there was known or probable insanity, feeble-mindedness, or other subnormal or abnormal mental condition. In 9 per cent of the cases there was definite feeble-mindedness or insanity in the family history.

Repeated infractions of the moral code, serious alcoholism, or other anti-social characteristics were reported in the histories of 42 per cent of the mothers of children born out of wedlock in one year, for whom social information was available, while the mothers of 54 per cent of the children under care of social agencies and of the same per cent of children under care of the state,

were so reported. Considering together the character of mother, father, and maternal grandparents for the group of 2,178 children under care of social agencies, only 38 per cent of the children had parents and grandparents who were of good character, so far as known. The mothers, fathers, or maternal grandparents of 62 per cent were alcoholic, immoral, otherwise delinquent, or of poor character.<sup>4</sup>

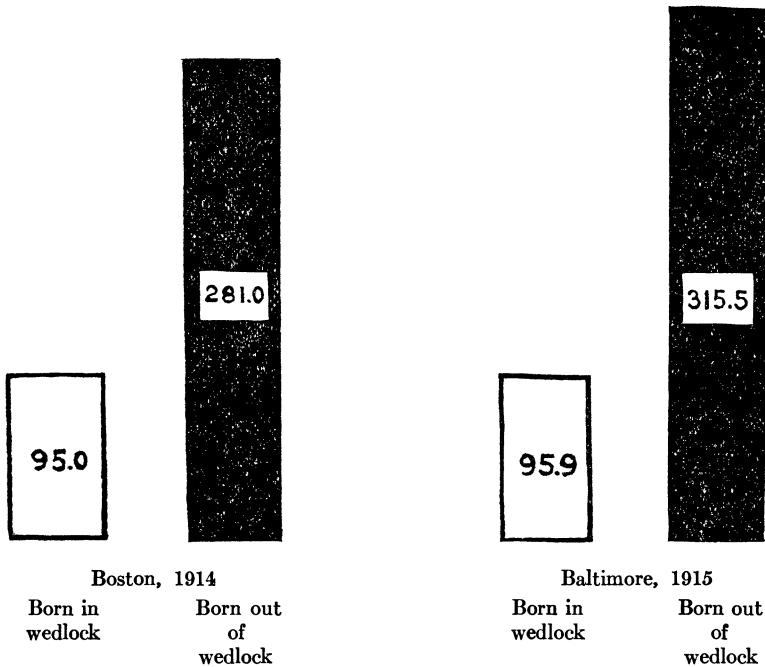
#### THE HAZARDS OF ILLEGITIMACY

*Infant mortality.* Wherever comparative figures are available showing infant mortality rates among babies of legitimate and of illegitimate birth, they tell the same story of the hazard to life and health to which the latter are subjected.

In Baltimore in 1915, white children of legitimate birth died at a rate of 95.9 per thousand, while the infant mortality rate for white children of illegitimate birth was 315.5, or 3.3 times as great. In Milwaukee, in the two-year period 1916-1917, the infant mortality rate among children born out of wedlock was 236.8 per thousand—two and one-fourth times as high as the rate for children of legitimate birth. In Boston, in 1914, the infant mortality rate based on the number of births and of infant deaths in that year, was 95 for children of legitimate birth and 281—three times as high—for those born out of wedlock. Early separation of the mother and child and the consequent difficulties in feeding undoubtedly account in large part for these excessive rates, though the rate for diseases of early infancy, closely associated with prenatal and natal conditions, was in Boston nearly three times as high as the corresponding rate for children of legitimate birth.<sup>5</sup>

<sup>4</sup> *Illegitimacy as a Child Welfare Problem*, Part 2, and also Part 3 (in press).

<sup>5</sup> *Ibid.*, Part 2, and also Part 3 (in press).

COMPARATIVE INFANT MORTALITY RATES FOR INFANTS BORN IN WEDLOCK  
AND BORN OUT OF WEDLOCK

*Deprivation of parental care and support.* By the circumstances of their birth, children born out of wedlock are deprived of the care and affection of both parents given under normal home surroundings. Separation from the mother at a very early age is a common experience. Recognizing the relation between separation from the mother and infant mortality, the laws of two states forbid the separation of mothers and babies under six months of age, while in a third state and in the largest city of a fourth, the same purpose is attempted through regulations by official bodies.<sup>6</sup>

A majority of the children born out

<sup>6</sup> Maryland, Laws 1916 c. 210; North Carolina, Laws 1917 c. 59; Minnesota, Joint Resolution, State Board of Health, State Board of Control, 1918; "Milwaukee Program for Unwed Mothers Proves Value of Breast Feeding," by Louise Drury, *The Crusader*, Vol. II, May, 1920, p. 18.

of wedlock receive no financial assistance from their fathers. Of 2,178 children of all ages under care of Boston agencies, the fathers of only 674—not quite one-third—were known to have contributed in any way to the support of the child or to have given the mother financial assistance; the fathers of two-fifths of 629 children less than two years of age under care of Philadelphia agencies, and the fathers of three-tenths of 271 children of the same age under care of Milwaukee agencies, had made such contributions, informally or through court action.

*Hereditary handicaps and environmental difficulties.* The hereditary handicaps which are the lot of many children born out of wedlock have already been indicated in the discussion of the background of illegitimacy. Besides being deprived in a large pro-

portion of cases of normal home life and of parental care and support, children born out of wedlock often suffer from other environmental disadvantages, including extreme poverty, poor living conditions, immorality or other delinquencies on the part of those responsible for their care, and frequent shiftings from home to home and from one type of care to another.

#### THE RELATION OF ILLEGITIMACY TO DEPENDENCY AND DELINQUENCY

Illegitimacy contributes largely to the burden the public must bear for the care and support of its weaker members; dependency upon social agencies is likely to begin earlier and to last longer in the case of children of illegitimate birth than among dependent children born in wedlock—except in those areas where almost immediate adoption is the rule in practically every instance coming to the attention of agencies.

More than one-third of the children born out of wedlock in Boston in one year were, during infancy, given prolonged care by child-caring or child-protective agencies. One-sixth of the cases under care of private child-caring agencies during the year, concerned children of illegitimate birth; one-ninth, of the cases under care of the public child-caring agency of the city, and almost one-fourth, of those under care of the state child-caring agency.<sup>7</sup>

The relation between illegitimacy and juvenile delinquency is naturally less close than that existing between illegitimacy and dependency, but the indications are that children born out of wedlock contribute more than their share to the numbers of juveniles who come in conflict with the law or who are wayward and difficult to control.

<sup>7</sup> *Illegitimacy as a Child Welfare Problem*, Part 2, cited above.

Probably this may be in part attributed to the shifting of the children from home to home and the comparative readiness with which custodians who are not parents of the children ask to be relieved of their care when they are troublesome.

#### STANDARDS OF LEGAL PROTECTION

In most states the child born out of wedlock bears practically the same relation to the mother, in matters of support and inheritance, as the child of legitimate birth; but in practically all states, up to the present time, it has been held incompatible with the interests of the legal family to place the child of illegitimate birth upon an equality with the child born in wedlock, with respect to his claims upon the father. North Dakota in 1917 and Arizona in 1921, enacted laws declaring every child the legitimate child of his natural parents and entitled to the same degree of support and education whether born in wedlock or born out of wedlock. Certain states give limited rights of inheritance from the father. Iowa, Wisconsin, and Missouri by a 1921 law, give rights of inheritance from the father whose paternity has been proved during his life time.<sup>8</sup>

Special forms of legal procedure have been developed for the establishment of paternity and the securing of support. Extreme examples of the inadequate amounts specified in many of these laws are found in the laws of one state in which the judgment is for a fine of \$10 and a single payment of \$50; and in the laws of another where the amount allowed is from \$1 to \$3 a month.<sup>9</sup> Moreover, laws relating to support are rendered still less effective by the limited use that is made of them. Within the past

<sup>8</sup> U. S. Children's Bureau: *Illegitimacy Laws of the United States and Certain Foreign Countries*, by Ernst Freund, Washington, 1919, p. 21.

<sup>9</sup> *Ibid.*, p. 41.



few years has come a great awakening of interest in legislation affecting children born out of wedlock, which for a century had been in a static condition. A law greatly increasing the support-obligation of the father was enacted in Massachusetts in 1913. In 1917, Minnesota passed one of the most liberal laws on the statute books of any state, and, in its administrative features, perhaps the most effective.<sup>10</sup>

As a means of bringing to a constructive conclusion its studies on illegitimacy as a child welfare problem, and at the request of the Inter-City Conference on Illegitimacy, an organization representing about twenty local groups and many individual members, the Children's Bureau of the United States Department of Labor held in 1920 two regional conferences on standards of legal protection for children born out of wedlock. The conclusions of these conferences may be summarized briefly as follows:<sup>11</sup>

1. All births should be registered, but in the case of an illegitimate birth the name of the father should be recorded on the birth certificate only after an adjudication of paternity or with the father's written consent. All births not clearly legitimate should be reported to a public agency having the responsibility for child welfare.

2. Proceedings to establish paternity should be initiated by the mother, or, if she is unwilling, by the public agency above referred to. The law should provide for the use of either a civil or a criminal proceeding, the court should be equipped with a staff of probation officers or other social case workers and the proceedings should be as informal and private as possible.

3. The Chicago conclusions stated that "the father of a child born out of wedlock should make financial provision for the ade-

quate care, maintenance, and education of the child, having reference to the father's economic condition." The New York resolutions included the statement that "the obligations for support on the part of the father should be the same for the child born out of wedlock as for the legitimate child." Settlements out of court in order to be valid should be approved by the court.

4. After an adjudication of paternity or an acknowledgment in writing by the father, the child born out of wedlock should have the same rights of inheritance as the child born in wedlock, and assumption of the father's name should be permissive.

5. Whenever possible, the mother should be persuaded to keep her child during the nursing period at least.

6. The duty of the state to protect the interests of children born out of wedlock was recognized and affirmed; it should be exercised through state departments having responsibility for child welfare. The parents should not be permitted to surrender a child for adoption, or to transfer guardianship, or to place it out permanently for care, without order of the court or state department, made after investigation. The state should license and supervise private hospitals which receive unmarried mothers for confinement, and all private child-helping and child-placing agencies, giving full opportunity for the development of private initiative.

As an outcome of the regional conferences, the National Conference of Commissioners on Uniform State Laws, organized to draft measures on subjects concerning which uniformity among the states is considered desirable, was requested to take under consideration the legal protection of children born out of wedlock. At the 1920 meeting of the conference a committee on the status and protection of illegitimate children was appointed with Professor Freund as chairman. A report which included a first tentative draft of a uniform illegitimacy act was presented to the annual meeting of the conference, held in Cincinnati August

<sup>10</sup> Massachusetts Laws 1913, c. 563; Minnesota Laws 1917, cc. 194, 210, 212.

<sup>11</sup> U. S. Children's Bureau, *Standards of Legal Protection for Children Born Out of Wedlock*, Washington, 1921, pp. 14-19.

24 to 30, 1921.<sup>12</sup> After discussion, the bill was referred to the same committee for further consideration and report next year.

Under the draft, the father is made liable for the expenses of the mother's pregnancy and confinement. The mother owes the child maintenance and support as if the child were legitimate. The father owes the child maintenance and support, having regard to the condition in life of the mother, until the child reaches the age of sixteen years, or if the child is physically or mentally incapable of working, until the child arrives at full age; thereafter the obligation of the father is to be that of a lawful parent under the poor laws. The father's obligation, where paternity has been judicially established or acknowledged by him, is enforceable against his estate, subject to the equities of his widow and lawful children. Agreement or compromise is binding only when adequate provision is fully secured and when approved by a court having jurisdiction to compel support of the child.

#### SOCIAL MEASURES FOR THE CARE OF THE CHILDREN

Social responsibility for the protection of children handicapped by birth out of wedlock must be exercised along three lines: The prevention of infant mortality; the insuring, so far as possible, of a mother's care and a father's support; provision for children whose parents cannot care for them.

Efforts to reduce the appalling infant mortality rate among these children include: Provision for maternity care—prenatal, confinement and postnatal; care of the mother and infant which will enable the mother to keep her child

with her during the nursing period at least; medical oversight and health supervision, as effective as that deemed necessary for infants of legitimate birth; and effective state supervision and licensing of private lying-in hospitals, boarding homes for infants, and all agencies and institutions caring for children, including the supervision of infants in institutions and of those placed in family homes.

The legal provisions by which some measure of support by the father may be secured, have already been discussed. To insure the child care by his own mother, not only during infancy but also in the years following—in many cases impossible—often involves prolonged financial assistance and careful supervision from social agencies. But a mother's care, whenever that may be secured, is the right of every child, and separation from the mother should not take place except for urgent reasons.

The essentials of adequate care for the many children born out of wedlock for whom no possibility of permanent care by their own parents exists, are the same as for children of legitimate birth who must be cared for by agencies and institutions.

With the possibilities of constructive social action, which may result in a lessening of the problem of illegitimacy and extra-marital sex relationships, a subject calling for earnest and thorough-going consideration, this discussion is not concerned. The development of technique in the study of the mental life and social reactions of individuals points toward future possibilities in social control. But the existence of the child born out of wedlock calls for present action which will safeguard the rights and secure the fulfillment of the obligations of the four parties at interest—the child, the mother, the father and society.

<sup>12</sup> National Conference of Commissioners on Uniform State Laws: Report of the Committee on Status and Protection of Illegitimate Children, August, 1921.